

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re:

SUBPOENAS ON THIRD PARTIES BOSTON
CHILDREN'S HOSPITAL AND DR. ROBERT
D'AMATO

Civil Action No.

CELGENE CORPORATION,

Plaintiff,

v.

*Underlying action pending in U.S. District
Court for the District of New Jersey*

HETERO LABS LIMITED, HETERO LABS
LIMITED UNIT-V, HETERO DRUGS
LIMITED, HETERO USA, INC., AUROBINDO
PHARMA LIMITED, AUROBINDO PHARMA
USA, INC., AUROLIFE PHARMA LLC,
EUGIA PHARMA SPECIALTIES LIMITED,
APOTEX INC., APOTEX CORP., MYLAN
PHARMACEUTICALS, INC., MYLAN
INC., MYLAN, N.V., BRECKENRIDGE
PHARMACEUTICAL, INC., and TEVA
PHARMACEUTICALS USA, INC.

Civil Action No. 2:17-cv-03387-ES-MAH
(Consolidated)

Defendants.

**DECLARATION OF KRISTINA CARY IN SUPPORT OF DEFENDANTS
TEVA'S, AUROBINDO'S, AND APOTEX'S MOTION TO COMPEL
PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA DUCES TECUM**

I, Kristina Cary, declare as follow:

1. I am an attorney with the law firm of Kirkland & Ellis LLP, counsel for Defendant Teva Pharmaceuticals USA, Inc. (“Teva”) in the above-captioned matter.

2. I submit this Declaration in support of Defendants Teva’s, Aurobindo’s, and Apotex’s Motion to Compel Production of Documents Pursuant to Subpoena Duces Tecum.

3. I have personal knowledge of the following facts and, if called to testify, I could and would testify competently to the matters stated herein.

4. Attached hereto as **Exhibit 1** is a true and correct copy of the Discovery Confidentiality Order (ECF No. 152) entered in C.A. No. 2:17-cv-03387-ES-MAH (“*Celgene v. Hetero*”).

5. Attached hereto as **Exhibit 2** is a true and correct copy of a press release dated August 1, 2000 bearing bates number DEFS_POM_00003851.

6. Attached hereto as **Exhibit 3** is a true and correct copy of a press release dated August 7, 2001 bearing bates numbers DEFS_POM_00003852-54.

7. Attached hereto as **Exhibit 4** is a true and correct copy of a press release dated November 13, 2002 bearing bates numbers DEFS_POM_00003838-41.

8. Attached hereto as **Exhibit 5** is a true and correct copy of an article entitled, Altman, D., FROM THALIDOMIDE TO POMALYST: BETTER LIVING THROUGH CHEMISTRY, available at <https://vector.childrenshospital.org/2013/04/from-thalidomide-to-pomalyst-better-living-through-chemistry> (last accessed Jan. 21, 2020).

9. Attached hereto as **Exhibit 6** is a true and correct copy of a press release dated November 20, 2002 bearing bates numbers DEFS_POM_00003855-56.

10. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts of a Celgene Corporation Annual Report 2002 bearing bates numbers DEFS_POM_00002015; DEFS_POM_00002061-62.

11. Attached hereto as **Exhibit 8** is a true and correct copy of the Parties' Joint Rule 26(f) Report, ECF 23, C.A. No. 13-cv-11573-MLW (D. Mass Feb. 6, 2014).

12. Attached hereto as **Exhibit 9** is a true and correct copy of United States Patent No. 8,198,262, Ex. A to ECF No. 1, Complaint in *Celgene v. Hetero*.

13. Attached hereto as **Exhibit 10** is a true and correct copy of United States Patent No. 8,673,939, Ex. B to ECF No. 1, Complaint in *Celgene v. Hetero*.

14. Attached hereto as **Exhibit 11** is a true and correct copy of United States Patent No. 8,735,428, Ex. C to ECF No. 1, Complaint in *Celgene v. Hetero*.

15. Attached hereto as **Exhibit 12** is a true and correct copy of Scheduling Order dated January 8, 2020, ECF No. 578, in *Celgene v. Hetero*.

16. Attached hereto as **Exhibit 13** is a true and correct copy of a subpoena duces tecum issued to Dr. Robert D'Amato.

17. Attached hereto as **Exhibit 14** is a true and correct copy of a subpoena duces tecum issued to Boston Children's Hospital.

18. Attached hereto as **Exhibit 15** is a true and correct copy of Dr. Robert D'Amato's objections and responses to subpoena duces tecum.

19. Attached hereto as **Exhibit 16** is a true and correct copy of Boston Children's Hospital's objections and responses to subpoena duces tecum.

20. Attached hereto as **Exhibit 17** is a true and correct copy of a letter from L. Pirozzolo to M. McLennan dated Sept. 20, 2019.

21. Attached hereto as **Exhibit 18** is a true and correct copy of an email from R. Shrestha dated Jan. 6, 2020.

I, Kristina Cary, declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: January 22, 2020

/s/ Kristina R. Cary
Kristina Cary

CERTIFICATE OF SERVICE

The undersigned certifies that, on January 22, 2020, a true and accurate copy of DECLARATION OF KRISTINA CARY IN SUPPORT OF DEFENDANTS TEVA'S, AUROBINDO'S, AND APOTEX'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS PURSUANT TO SUBPOENA DUCES TECUM was served on counsel for Non-Movants Lisa J. Pirozzolo of WilmerHale by hand delivery with a courtesy copy by email.

Dated: January 22, 2020

/s/ Kristina R. Cary
Kristina Cary